

1 Honorable James L. Robart
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7 UNITED STATES DISTRICT COURT
8 FOR THE WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 Juweiya Abdiaziz ALI; A.F.A., a minor;
11 Reema Khaled DAHMAN; G.E., a minor;
12 Jaffer Akhlaq HUSSAIN; Seyedehfatemeh
13 HAMEDANI; Olad Issa OMAR; Faduma
14 Olad ISSA; F.O.I., a minor; and S.O.I., a
15 minor; on behalf of themselves as individuals
16 and on behalf of others similarly situated,

17 Plaintiffs,
18 v.
19

20 Donald TRUMP, President of the United States
21 of America; Jefferson B. SESSIONS, Attorney
22 General of the United States; U.S.
23 DEPARTMENT OF STATE; Rex W.
24 TILLERSON, Secretary of State; U.S.
25 DEPARTMENT OF HOMELAND
26 SECURITY; John F. KELLY, Secretary of
Homeland Security; U.S. CITIZENSHIP AND
IMMIGRATION SERVICES; Lori
SCIALABBA, Acting Director of USCIS;
CUSTOMS AND BORDER PROTECTION;
Kevin K. McALEENAN, Acting
Commissioner of CBP; OFFICE OF THE
DIRECTOR OF NATIONAL
INTELLIGENCE; Michael DEMPSEY,
Acting Director of National Intelligence,

27 Defendants.
28

CHAVEZ DECL. ISO PLS.' MOT.
FOR TRO AND PRELIM. INJ.
Case No. 2:17-cv-00135-JLR

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**DECLARATION OF MARIA LUCIA
CHAVEZ IN SUPPORT OF PLAINTIFFS'
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

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615 Second Ave., Ste. 400
Seattle, WA 98104
206-957-8611

1 I, Maria Lucia Chavez, declare as follows:

2 1. I am counsel of record for Plaintiffs in this case. I submit this declaration in support of
3 Plaintiffs' Emergency Motion for a Temporary Restraining Order and a Preliminary Injunction,
4 Dkt. 53.

5 2. I have personal knowledge of the facts set forth herein, and, if called as a witness, I could
6 and would testify completely as set forth below.

7 3. I am an attorney in the Family Services Unit at Northwest Immigrant Rights Project in
8 Seattle, Washington, where my primary focus is assisting individuals in family-based petitions
9 and immigrant visa applications.

10 ***Plaintiffs Olad Issa Omar, Faduma Olad Issa, F.O.I., and S.O.I.***

11 4. I represent Plaintiff Olad Issa Omar and his three children, Plaintiff Faduma Olad Issa,
12 Plaintiff F.O.I., and Plaintiff S.O.I. in connection with their immigrant visa applications.

13 5. Plaintiff Omar, a U.S. citizen, filed separate immigrant visa petitions on Form I-130 on
14 behalf of each of his three children, who are citizens of Somalia, born in Kenya.

15 6. Upon approval of three immigrant visa petitions, Plaintiffs Issa, F.O.I., and S.O.I.
16 immigrant visa numbers were immediately available to them as immediate relatives of a U.S.
17 citizen (category IR2) and thus, they were eligible to apply for immigrant visas. Plaintiffs Issa,
18 F.O.I., and S.O.I. were scheduled to attend their immigrant visa interview at the U.S. Embassy in
19 Nairobi in November 2016, but that interview was cancelled and they were asked to reschedule
20 another immigrant visa interview and pay the immigrant visa application fee in person at the
21 U.S. Embassy in Nairobi. Before the announcement of the first Executive Order (EO1), they
22 were scheduled for an immigrant visa interview on March 20, 2017. Due to EO1, the State
23 Department subsequently cancelled the March 20 interview.

24 7. On March 13, 2017, Plaintiffs Issa, F.O.I., and S.O.I. attended a rescheduled immigrant
25 visa interview at the U.S. Embassy in Nairobi.

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Case No. 2:17-cv-00135-JLR

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1 8. On March 13, 2017, after Plaintiffs Issa, F.O.I., and S.O.I. attended their immigrant visa
 2 interview, I checked the immigrant visa case status of Plaintiff Issa, the oldest of the three
 3 children, by accessing the Consular Electronic Application Center (“CEAC”) of the U.S.
 4 Department of State, *available at* <https://ceac.state.gov/ceacstattracker/status.aspx>. Her case
 5 information was last updated on March 13, 2017 and the status is “Administrative Processing.”
 6

7 *See Ex. A.*

8 9. I also checked the immigrant visa case status of Plaintiffs F.O.I. and S.O.I. The CEAC
 9 database indicates that each of their cases was last updated on March 13, 2017 and the case status
 10 is “Ready.” *See Exs. B and C.*

11 10. On March 13, 2017, Plaintiffs Issa, F.O.I., and S.O.I. attended their immigrant visa
 12 interview together. At their immigrant visa interview, they were given two documents. The first
 13 advised their immigrant visas had been refused under Section 221(g) of the Immigration and
 14 Nationality Act (“INA”), 8 U.S.C. § 1201(g), requesting further information related to each of
 15 their individual cases. *See Ex. D.* The second document “recommended” DNA test results for all
 16 three children to confirm their relation to their father, Plaintiff Omar. *See Ex. E.* While the notice
 17 they received notes that it is “recommended” that the children provide DNA test results, in my
 18 experience, when this information is not provided, the consular officer will deny the visa
 19 application, so a “recommendation” is in fact a requirement.

20 11. Also in my experience, although the CEAC status update indicates F.O.I.’s and S.O.I.’s
 21 immigrant visa cases as being “Ready,” they are also in “Administrative Processing,” like their
 22 sister Plaintiff Issa’s immigrant visa case.

23 12. When a case status is listed as in “Administrative Processing”, it does not mean a visa
 24 applicant has received a final adjudication of their immigrant visa application. Further, a visa
 25 “refusal” under INA § 221(g) does not mean the adjudication of an immigrant visa application
 26 has concluded *and* they now have to reapply for an immigrant visa all over again. Having a visa
 27 refused under Section 221(g) of the INA “means that the consular officer did not have all of the
 28

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1 information required to determine if you are eligible to receive a visa. This means you are not
 2 eligible for the visa now, but your case is pending further action for one of the following
 3 reasons..." *See* Ex. F at 3. One of those reasons can be "Administrative Processing." *See id.* In
 4 my experience, the U.S. Department of State uses the terms "refused" and "denied"
 5 interchangeably. *See, e.g.*, Ex. F at 2.

6 13. The consular officer is asking Plaintiffs Issa, F.O.I., and S.O.I. to provide the missing
 7 documents or information for the adjudication of their immigrant visa application. In fact,
 8 according to the U.S. Department of State's information, under Visa Denials, "[a]fter submitting
 9 the documentation, your visa application can then be processed to conclusion to determine
 10 whether you qualify for a visa. You have one year from the date you were refused a visa to
 11 submit the additional information." *See* Ex. F at 3.

12 14. The State Department, through the consular officer, has asked Plaintiff Issa to provide a
 13 Kenyan police certificate and "recommending" that she provide DNA test results. *See* Exs. D and
 14 E.

15 15. The State Department, through the consular officer, has asked Plaintiff F.O.I. to provide
 16 Form I-864, Affidavit of Financial Support, along with her father and petitioner Plaintiff Omar's
 17 2015 or 2016 tax return transcripts, and is "recommending" that she provide DNA test results.
 18 *See id.* The consular officer is asking Plaintiff F.O.I. to provide Form I-864 because she soon
 19 will turn 18 years old and, due to the DNA test result request which can take months to obtain,
 20 and her Form I-864W, Request for Exemption for Intending Immigrant's Affidavit of Support,
 21 will no longer be considered. Turning 18 years old in a couple of months would also require
 22 Plaintiff F.O.I. to submit a police certificate.

23 16. The State Department, through the consular officer, has asked Plaintiff S.O.I. to provide a
 24 power of attorney signed by their father, Plaintiff Omar, to allow his sister, Plaintiff Issa, to
 25 represent him in his interview given that I.S.O. is a minor, and is "recommending" that he
 26 provide DNA test results. *See id.*

17. Provided the second Executive Order (EO2) does not suspend, delay, or negatively impact the immigrant visa process, after submitting the requested documents and information, the U.S. Embassy will proceed with its adjudication of the immigrant visa applications of Plaintiffs Issa, F.O.I., and S.O.I. In my experience, this means that the U.S. Embassy subsequently would issue them immigrant visas (in a sealed envelope known as an immigrant visa packet).

Plaintiffs Juweiya Abdiaziz Ali and A.F.A.

18. I also represent Plaintiff Juweiya Abdiaziz Ali and her son, Plaintiff A.F.A., in the child's immigrant visa application.

19. Plaintiff Ali, a U.S. citizen, filed a family-based immigrant visa petition (Form I-130) on behalf of Plaintiff A.F.A., who is a citizen of Somalia, born in Somalia.

20. Upon approval of the family visa petition, as an immediate relative of a U.S. citizen (category IR2), an immigrant visa number was immediately available to Plaintiff A.F.A., and thus, he was immediately eligible to apply for an immigrant visa .

21. The civil documents related to A.F.A.’s case were mailed to the National Visa Center (“NVC”) on January 20, 2017 via United Parcel Service, and received by the NVC on January 27, 2017. *See Ex. G.* Also on January 20, 2017, A.F.A.’s Form DS-260, Immigrant Visa Electronic Application, was completed and electronically submitted. *See Ex. H.* Therefore, A.F.A. has submitted an immigrant visa application, the adjudication of which is pending. He is waiting for the U.S. Embassy to schedule his immigrant visa interview.

22. Provided EO2 does not suspend, delay or negatively impact the immigrant visa process, the U.S. Embassy will proceed with its adjudication of Plaintiff A.F.A.'s immigrant visa application.

Plaintiffs Reema Khaled Dahman and G.E.

23. I also represent Plaintiff Reema Khaled Dahman and her son, Plaintiff G.E., in the child's immigrant visa application.

CHAVEZ DECL. ISO PLS.' MOT.
FOR TRO AND PRELIM. INJ.
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24. Plaintiff Dahman, a lawful permanent resident, filed a family-based immigrant visa petition (Form I-130) on behalf of Plaintiff G.E., who is a citizen of Syrian, born in Syria.

25. Plaintiff G.E. has a Priority Date (category F2A) of October 19, 2015, the date Plaintiff Dahman's Form I-130 was filed with U.S. Citizenship and Immigration Services. When a priority date is current it means that an immigrant visa number is available and the person then is eligible to apply for an immigrant visa. Pursuant to the Visa Bulletin published monthly by the U.S. Department of State, Plaintiff G.E.'s Priority Date is not yet current as reflected in Chart A, Final Action Dates for Family-Sponsored Preference Cases, of the April 2017 Visa Bulletin. *See* Ex. I at 2. However, Chart B, Dates for Filing Family-Sponsored Visa Applications, reflects G.E. has a Priority Date earlier than the application date and that he was eligible to submit required documents to the National Visa Center, following receipt of notification from the National Visa Center. *See id* at 3. Chart B indicates the F2A category is at November 22, 2015 (22NOV15), and G.E.'s Priority Date is that of October 19, 2015 (19OCT15). *See id*. The National Visa Center sent notification on July 22, 2016 for the required processing fees (\$120 and \$325) to be paid. Once the fees were paid, the civil documents related to Plaintiff G.E. were e-mailed to nvcelectronic@state.gov on December 2, 2016. Form DS-260, Immigrant Visa Electronic Application, was also completed and electronically submitted on December 2, 2016. *See* Ex. J. On March 9, 2017, a copy of G.E.'s Syrian Judicial Record Extract was emailed to nvcelectronic@state.gov, as requested by the National Visa Center on December 8, 2016.

26. Provided EO2 does not suspend, delay or negatively impact the immigrant visa process, the U.S. Embassy will proceed with adjudicating G.E.'s already submitted immigrant visa application. In my experience, G.E.'s Priority Date should become current in about four months and this will be reflected in Chart A of the Visa Bulletin for that specific month.

Supporting evidence

27. Where the following exhibits include names of minors or confidential information, I have redacted that information.

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Case No. 2:17-cv-00135-JLR

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1 28. Attached as **Exhibit A** is a true and correct copy of the printout of Plaintiff Issa's
2 Immigrant Visa Application case status via the CEAC of the U.S. Department of State, *available*
3 *at* [*https://ceac.state.gov/ceacstattracker/status.aspx*](https://ceac.state.gov/ceacstattracker/status.aspx). Her case was last updated on March 13,
4 2017. I accessed the database on March 13, 2017, March 14, 2017, and March 15, 2017.

5 29. Attached as **Exhibit B** is a true and correct copy of a printout of Plaintiff F.I.O.'s
6 Immigrant Visa Application case status via the CEAC of the U.S. Department of State, *available*
7 *at* [*https://ceac.state.gov/ceacstattracker/status.aspx*](https://ceac.state.gov/ceacstattracker/status.aspx). Her case was last updated on March 13,
8 2017. I accessed the database on March 13, 2017, March 14, 2017, and March 15, 2017.

9 30. Attached as **Exhibit C** is a true and correct copy of a printout of Plaintiff S.I.O.'s
10 Immigrant Visa Application case status via the CEAC of the U.S. Department of State, *available*
11 *at* [*https://ceac.state.gov/ceacstattracker/status.aspx*](https://ceac.state.gov/ceacstattracker/status.aspx). His case was last updated on March 13,
12 2017. I accessed the database on March 13, 2017, March 14, 2017, and March 15, 2017.

13 31. Attached as **Exhibit D** is a true and correct copy of U.S. Embassy Nairobi Document,
14 dated March 13, 2017, requesting further information and documentation for Plaintiffs Issa,
15 F.O.I., and S.O.I.

16 32. Attached as **Exhibit E** is a true and correct copy of U.S. Embassy Nairobi Document,
17 dated March 13, 2017, recommending DNA testing.

18 33. Attached as **Exhibit F** is a true and correct copy of U.S. Department of State information
19 on Visa Denials, *available at* [*https://travel.state.gov/content/visas/en/general/denials.html*](https://travel.state.gov/content/visas/en/general/denials.html). I
20 accessed the database on March 14, 2017 and March 15, 2017.

21 34. Attached as **Exhibit G** is a true and correct copy of UPS Delivery Receipt regarding
22 A.F.A.'s civil document submission to the National Visa Center, delivered on January 27, 2017.
23 I accessed the database on March 14, 2017.

24 35. Attached as **Exhibit H** is a true and correct copy of Form DS-260 Confirmation Page
25 relating to A.F.A.'s submitted Immigrant Visa Application. I accessed the database on January
26 20, 2017.

27 CHAVEZ DECL. ISO PLS.' MOT.
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1 36. Attached as **Exhibit I** is a true and correct copy of U.S. Department of State's Visa
2 Bulletin for April 2017, *available at* [https://travel.state.gov/content/visas/en/law-and-](https://travel.state.gov/content/visas/en/law-and-policy/bulletin/2017/visa-bulletin-for-april-2017.html)
3 policy/bulletin/2017/visa-bulletin-for-april-2017.html. I accessed the database on March 15,
4 2017.

5 37. Attached as **Exhibit J** is a true and correct copy Form DS-260 Confirmation Page
6 relating to G.E.'s submitted Immigrant Visa Application. I accessed the database on December 2,
7 2016.

8 I declare under penalty of perjury under the laws of the United States that the foregoing is
9 true and correct to the best of my information, knowledge, and belief.

12 Executed on this 15th day of March, 2017, in Seattle, Washington.

13 By:

14 s/ Maria Lucia Chavez
15 Maria Lucia Chavez, WSBA No. 43826
16 Northwest Immigrant Rights Project
17 615 Second Avenue, Suite 400
18 Seattle, WA 98104
19 (206) 957-8611
20 (206) 587-4025 (fax)

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on March 15, 2017, I electronically filed the foregoing with the Clerk
3 of the Court using the CM/ECF system, which will send notification of such filing to the
4 attorneys of record for all Defendants.

5

6 Executed in Seattle, Washington, on March 15, 2017.

7 s/ *Glenda Aldana*
8 Glenda M. Aldana Madrid, WSBA No. 46987
9 Northwest Immigrant Rights Project
10 615 Second Avenue, Suite 400
11 Seattle, WA 98104
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